

September 4, 1997

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON

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REPORT AND DECISION ON AN APPEAL FROM NOTICE AND ORDER

SUBJECT: Department of Development and Environmental Services File No. **E9301058**

VICTOR & JOY MILLS
Code Enforcement Appeal

Location: 25432 SE 359th Street

Appellants: Victor & Joy Mills
PO Box 272
Black Diamond, WA 98010

SUMMARY:

Division's Preliminary: Postpone 90 days
Division's Final: Deny
Examiner: Denied

PRELIMINARY MATTERS:

Notice of appeal received by Examiner: May 5, 1997
Statement of appeal received by Examiner: May 13, 1997

EXAMINER PROCEEDINGS:

Hearing Opened: May 27, 1997
Hearing Administratively Continued: June 2, 1997
Hearing Record Closed: September 2, 1997

The hearing record on this matter was continued administratively until August 25, 1997, for the purpose of allowing the Appellants additional time to make "satisfactory progress" toward satisfying

compliance requirements contained in the Department's Notice and Order of March 21, 1997. In the absence of satisfactory progress toward compliance, the Examiner's June 2, 1997 Notice of Administrative Continuance required issuance of a final Report and Decision based upon the hearing record established May 27, 1997. On September 2, 1997, the Department of Development and Environmental Services notified the Examiner's Office that the Mills had not obtained the required permits, whereupon the hearing record closed.

ISSUES ADDRESSED:

- Untested water source
- Unhealthful septic treatment system
- Unauthorized occupancy of second mobile home

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the records in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. A second mobile home exists on the subject property, which was placed at least four years ago without permits.
2. The Seattle-King County Department of Public Health (the "Health Department") has determined that this site does not currently meet its minimum requirements. It requires a "spring design" for the water source (a natural, and apparently abundant, water source) and a septic treatment system for the second mobile home. Victor and Joy Mills (the "Appellants") have been unsuccessful in their efforts to obtain a water system designer. A "water system design" will require, at a minimum, for medical hardship approval, the following:
 - A spring site inspection;
 - A notarized and recorded copy of declarative covenant and a restrictive covenant for a private spring;
 - Raw water bacteriological samples, minimum of six samples over a period of one year;
 - Six water flow tests at two-month intervals; and
 - A nitrate test.

These requirements have been communicated by letter from the Health Department to the Appellants on at least two occasions. See Exhibit Nos. 8 and 9. Requirements may have changed somewhat since the Health Department issued its advisory letters in 1992 and 1993.

3. In the absence of Health Department approval, the Health Department and the Department of Development and Environmental Services ("DDES", or "the Department") have each determined that the presence of a second mobile home without approved domestic utilities constitutes a health hazard that must be resolved.
4. The Department recommended to the Examiner on June 2, 1997, that the Appellant be allowed an additional ninety days to retain the services of a septic system designer and licensed well

installer, and to obtain Health Department approval for their water and septic systems. Consequently, the Appellant was granted the administrative continuance described on the previous page. However, the Appellants have made no progress toward compliance.

5. The Department suggests that there are additional alternatives which may be investigated with the Health Department, which may assist the Appellants in their situation:
- Would a framed addition be treated the same as a separate mobile home?
 - Could the second mobile home be treated as an addition to the first mobile home?
 - Could it be connected by a breezeway?

These alternatives appear not to have been investigated by the Appellants.

6. As noted in the hearing record, the second mobile home is an adjunct to the first, in order to accommodate housing for the extended family. The Appellant's mother had lived in the second mobile home until self-care became too difficult, then moved into the first mobile home. This move required the Appellant's 19-year-old son to abandon his bedroom (for his grandmother) and to move into the second mobile home.

CONCLUSIONS:

1. The Appellants have placed and occupied a second mobile home upon the subject property without required permits, in violation of KCC 21A.32.170.
2. Allowing this case to continue for four years, the Department of Development and Environmental Services has demonstrated extraordinary patience and leniency -- unfortunately, at a risk to public health. The Department notified the Appellants on October 26, 1995 that the above-described location was being maintained/used in violation of County law. The Appellants were requested to correct all violations. As of the close of this hearing record, on September 2, 1997, the Appellants still have failed to comply with the Department's requests and orders to bring the property into code compliance.
3. The hearing record established above compels denial of the appeal. Consequently, the Order below is entered.

DECISION:

The appeal of VICTOR AND JOY MILLS regarding the cited violation at 25432 SE 359th Street (DDES Case No. E9301058) is **DENIED**.

ORDER:

- A. Victor and Joy Mills are ordered to obtain required permits for the second mobile home on the subject property; OR, in the alternative, remove the mobile home from the property.
- B. Compliance with paragraph A of this Order shall be achieved **not later than November 21, 1997**, or, from that date forward, Victor and Joy Mills shall incur a cumulative penalty in the

amount of \$25.00 per day, plus billable costs of the Department of Development and Environmental Services, to be incurred until the violation is corrected.

- C. The Department shall periodically bill Victor and Joy Mills for the civil penalty amount incurred up to and through the date of billing. Periodic bills are due and payable thirty (30) days from receipt. The civil penalty shall be charged as a personal obligation of the property owners and as a lien against the property.
- D. In the event compliance has not been accomplished by **January 1, 1998**, the Department shall abate the second mobile home by removing it from the property. The cost of this abatement work shall be charged as a personal obligation of Victor and Joy Mills and as a lien against the property.
- E. This Order implements the King County Department of Development and Environmental Services Order entered March 21, 1997. It does not exempt Victor and Joy Mills from criminal misdemeanor or other legally authorized remedies which may be pursued by the Department or by the King County Prosecutor.

ORDERED this 4th day of September, 1997.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 4th day of September, 1997, to the following parties and interested persons:

Victor & Joy Mills
PO Box 272
Black Diamond, WA 98010

Ken Dinsmore, DDES/Bldg. Services
Steve Wright, DDES/Bldg. Services

The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one days of issuance of the decision.

MINUTES OF THE MAY 27, 1997 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E9301058 - VICTOR AND JOY MILLS:

R. S. Titus was the Hearing Examiner in this matter. Participating at the hearing were Joy and Victor Mills/appellants, and Steve Wright/DDES-Code Enforcement Section.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 King County (KC) Department of Development and Environmental Services (DDES), Building Services Division, Code Enforcement Section report to the Hearing Examiner, dated for the May 27, 1997 public hearing of file number E9301058/
Joy & Victor Mills
- Exhibit No. 2 KC DDES Notice & Order, dated March 21, 1997
- Exhibit No. 3 Notice of Appeal, signed by Victor and Joy Mills, dated received April 7, 1997 by
DDES
- Exhibit No. 4 Referral To Code Enforcement, from Permit Counter, dated August 5, 1993
- Exhibit No. 5 Letter of violation, dated August 31, 1995, from KC DDES, to Victor and Joy Mills
- Exhibit No. 6 Letter of violation, dated October 26, 1995, from KC DDES, to Victor and Joy Mills
- Exhibit No. 7 Copy of section of King County Code 21A.32.170
- Exhibit No. 8 Letter, dated June 22, 1993, from Seattle-King County Department of Public Health, to
Joy Mills, re: septic system site application criteria
- Exhibit No. 9 Letter, dated June 22, 1993, from Seattle-King County Department of Public Health, to
Joy Mills, re: medical hardship mobile home placement
- Exhibit No. 10 Vicinity map

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